

**OFFICE OF THE ATTORNEY GENERAL****WASHINGTON, DC 20530****Policy On Fugitive Apprehension In  
Federal Bureau Of Investigation and Drug Enforcement Administration Cases**

This Fugitive Apprehension Policy applies to fugitives in Federal Bureau of Investigation (FBI) and Drug Enforcement Administration (DEA) cases and to foreign fugitives. It supersedes all prior inter-agency memoranda of understanding on fugitive apprehension responsibility in FBI and DEA cases, including the July 23, 1979, agreement between the FBI and the United States Marshals Service (USMS) and the 1982 agreement between the FBI and DEA. The purpose of this policy is to ensure the timely apprehension of fugitives through interagency cooperation where helpful, but without unnecessary duplication of effort.

**A. Arrest Warrants**

1. The FBI and DEA shall have apprehension responsibility on all arrest war-rants resulting from their own investigations.
2. Notwithstanding paragraph 1, the DEA may delegate apprehension and administrative responsibility (including initial NCIC entry) to the USMS whenever the subject of a DEA arrest Warrant is not apprehended within seven days after issuance of the arrest warrant, or it may elect to retain this responsibility individual cases for investigative purposes. The delegation becomes effective upon notification of USMS by DEA.
3. In cases of joint FBI-DEA investigations and multiple agency task force investigations, it shall be the decision of the lead agency whether to have the investigating agencies maintain apprehension responsibility themselves -or delegate apprehension responsibility to the USMS.

**B. Post-Arrest**

1. The FBI, in an FBI case, shall have apprehension responsibility whenever there is a bond default violation prior to adjudication of guilt.
2. The USMS, in a DEA case, shall have apprehension responsibility whenever there is a bond default violation prior to adjudication of guilt.

**C. Post-Conviction/Other Than Escapes**

1. The USMS shall have apprehension responsibility whenever after adjudication of guilt there is a Federal probation, parole, or bond default or mandatory release violation, except as set forth below.
2. The USMS will promptly notify the original investigating agency whenever there is such a violation.

**D. Escapes**

1. The USMS shall have apprehension responsibility whenever there is a violation of the Federal Escape and Rescue Statutes.
2. The USMS will promptly notify the original investigating agency whenever there is an escape.

### **E. Exceptions**

1. Upon written notice to the USMS as provided in paragraph three below, the FBI will have exclusive apprehension responsibility in its own cases at any stage when a fugitive, or the organization of which he is a current member, is the subject of an existing FBI Foreign Counterintelligence, FBI Organized Crime [note This term covers those organizations being investigated by the FBI as a 'racketeering enterprise' pursuant to the Attorney General's Guidelines on Racketeering Enterprise Investigations and the criteria set forth in Section 92 of the FBI Manual of Investigative Operations.] or FBI Terrorism investigation.
2. Upon written notice to the USMS as provided in paragraph three below, the FBI or DEA may assume apprehension responsibility in any case where the FBI or DEA is seeking the fugitive on an arrest warrant based on charges filed by it for an additional offense beyond the one for which the subject is a fugitive.
3. In those situations where the FBI or DEA elect to assume apprehension responsibility, agency Headquarters shall immediately notify USMS Headquarters. The assumption of apprehension responsibility becomes effective seven-calendar days after receipt of notice by USMS Headquarters. During that seven-day period, the investigating agency and USMS shall fully coordinate their fugitive apprehension efforts. The, USMS for good cause may request the investigating agency to consent to the continuation of USMS apprehension efforts for a limited or indefinite period of time. Should that consent be declined, the USMS may request the Associate Attorney General to approve a limited or indefinite continuation. Such a request will be made within the seven-day period. In making this decision, the Associate Attorney General will consider the relative interests of each agency and the need for swift apprehension of the fugitive. The Associate Attorney General shall make this decision within forty---eight hours of receiving a request. The fugitive investigation will continue to be coordinated by the agencies during the time the Associate Attorney General is considering the matter.
4. In the event of an escape, it is particularly important that fugitive apprehension efforts be closely coordinated during the seven-day period following the giving of notice under paragraph three. The investigating agency, shall assume sole apprehension responsibility at the conclusion of the prescribed period. However, the USMS and the agency shall be responsible for maintaining an orderly transition, which would include capitalizing on leads developed by the USMS during its initial investigation of escape.
5. The investigating agency shall return apprehension responsibility to the USMS if the reason for the exception is no longer applicable. [For example, if the FBI is seeking an escapee, because it has an arrest warrant for him. and the arrest warrant is later withdrawn because the case is dismissed. apprehension responsibility for the escape would be returned to the USMS.]

### **F. Unlawful Flight Statute**

1. The FBI shall have such jurisdiction in locating fugitives pursuant to the Unlawful Flight

Statutes (Title 18, Sections 1073 and 1074), but, in exercising it, the FBI will not seek an Unlawful Flight warrant when the USMS is already seeking the fugitive as an escape, probation/parole, mandatory release, or bond default violator. Nor will the FBI seek an Unlawful Flight warrant against any fugitive already sought by the USMS pursuant to the Federal Escape and Rescue Statutes. The above provisions shall not preclude the USMS from providing available information to state and local law enforcement agencies about fugitives being sought by their jurisdictions. The initiation of formal fugitive investigations involving state and local fugitives will be done through the Unlawful Flight process set forth above, except for special apprehension programs (such as Fugitive Investigative Strike Teams and Warrant Apprehension Narcotics Teams) and other special situations approved by the Associate Attorney General.

2. The FBI will notify the USMS of any state or local requests for Unlawful Flight assistance in situations described above. The FBI will also notify local or state authorities that the USMS is already seeking that person. In these situations, the USMS will notify the appropriate local or state authorities when a fugitive has been apprehended, so that a local detainer can be placed.

3. If state or local authorities request the assistance of the USMS in locating or apprehending a fugitive and it is determined that the fugitive is the subject of an FBI or DEA warrant, the USMS shall refer the requesting agency to the FBI or DEA for assistance and notify the FBI or DEA of the request by the state or local authority.

#### **G. Foreign Fugitives**

1. The USMS shall have location and apprehension responsibility for a fugitive sought in the United States by a foreign government, except as provided below.

2. The FBI shall have location and apprehension responsibility for such a foreign fugitive: (a) whenever the fugitive, or the organization of which he is a current member, is the subject of an existing FBI Foreign Counterintelligence, FBI Organized Crime, or FBI Terrorism investigation; (b) whenever the FBI is seeking the fugitive on an arrest warrant for a Federal offense; (c) whenever the fugitive is the subject of an FBI investigation which it is currently conducting at the request of the foreign government concerned; or (d) whenever a referral has been made exclusively to the FBI through one of its legal attaches.

3. The DEA shall have location and apprehension responsibility for such a foreign fugitive: (a) whenever the fugitive is the subject of a DEA investigation which it is currently conducting at the request of the foreign government concerned; or (b) whenever a referral has been made exclusively to the DEA through one of its country attaches.

4. INTERPOL-USNCB shall, upon receiving from a foreign government a request for the location or apprehension of such a fugitive, refer such a request to the USMS, FBI or DEA in accordance with the provisions of paragraphs one through three above. However, nothing herein precludes referral of such requests instead, where appropriate, to the U.S. Immigration and Naturalization Service for action under the immigration laws or to state and local law enforcement authorities in accordance with 2; INTERPOL's internal procedures and practices. [This policy is applicable to Department of Justice agencies only. If a Treasury Department agency received an exclusive referral, it would, of course, handle the matter pursuant to Treasury Department or agency policy.]

5. Upon receiving a request from a foreign government for the location or apprehension of a

fugitive, the FBI, DEA, USMS or the Office of International Affairs, Criminal Division (OIA), shall notify INTERPOL-USNCB of this fact to determine the existence of any parallel request or investigation with respect to the fugitive.

6. Once a matter has been referred to the FBI, DEA, or USMS by INTERPOL-USNCB, the notice, coordination, and review procedures set forth in -Part E shall govern if either of the other two agencies concludes it should have fugitive apprehension responsibility under the provisions of this policy.

#### **H. Inter-Agency Coordination**

1. In cases where the USMS is requested to provide apprehension assistance or to seek the apprehension of a fugitive sought by a Federal agency other than the FBI or DEA and it is determined by the USMS through an NCIC or other appropriate inquiry that the FBI or DEA have an existing warrant, the USMS will notify the requesting agency of the existing FBI or DEA warrant. If the requesting Federal agency continues to seek USMS assistance, the USMS will notify the FBI or DEA of the request for assistance by the other agency. The FBI or DEA's ability in the particular case or will either defer to the USMS the fugitive apprehension responsibility in the particular case or assert the need to continue its apprehension responsibilities in regard to the fugitive. The USMS shall defer in those instances to the FBI or DEA, unless the requesting agency declines to accept the deferral. In such instances, the requesting agency, the USMS, the FBI or DEA shall confer at the headquarters level to resolve the issue. If a resolution is not reached between the involved agencies on the issue, it will be referred to the Associate Attorney General under the same provisions as set forth in Section E 3 above.

2. The Director of the FBI, the Administrator of DEA, and the Director of the USMS shall each designate a representative to a working group charged with developing procedures to develop implementing procedures for this policy. The Chief of Interpol (USNCB) may also designate a representative to attend any meetings concerned with implementation of part G of this policy.

3. Nothing in this policy prevents an individual investigating agency from delegating its designated apprehension responsibility in a particular case or category of cases to the USMS, or prevents the USMS in n= from delegating its designate apprehension responsibility to the investigating agency.

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Edwin Meese III  
Attorney General